

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALAN T. BROOKS,

Petitioner Below-  
Appellant,

v.

DELAWARE DEPARTMENT OF  
CORRECTIONS & PAROLE  
BOARD,

Respondents Below-  
Appellees.

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§ No. 18, 2009

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§ Court Below—Superior Court  
§ of the State of Delaware

§ in and for New Castle County

§ Cr. ID No. 86002026DI

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Submitted: April 20, 2009

Decided: April 22, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices

**ORDER**

This 22<sup>nd</sup> day of April 2009, it appears to the Court that:

(1) The petitioner-appellant, Alan T. Brooks, filed an appeal from the Superior Court's January 7, 2009 order denying his petition for a writ of mandamus.<sup>1</sup> After briefing was complete, Brooks filed a letter in the Court on April 2, 2009, requesting to withdraw his appeal on the ground that a parole hearing had been scheduled for the following week. On that date, the Clerk requested the Office of the Attorney General to file a stipulation of

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<sup>1</sup> The record reflects that Brooks sought a writ of mandamus to compel the Board of Parole to schedule a hearing.

dismissal on or before April 13, 2009. On April 20, 2009, the Office of the Attorney General wrote to the Court to report that Brooks had refused to sign the stipulation of dismissal. Because Brooks' mandamus petition is now moot, the judgment of the Superior Court must be AFFIRMED.

(2) A writ of mandamus may be issued by the Superior Court to compel an administrative agency to perform a duty.<sup>2</sup> As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the administrative agency has arbitrarily failed or refused to perform its duty.<sup>3</sup>

(3) Because the parole hearing sought by Brooks in his mandamus petition has taken place, his appeal from the Superior Court's denial of his petition for a writ of mandamus is now moot. As such, the judgment of the Superior Court must be affirmed, albeit on grounds different from those relied upon by the Superior Court.<sup>4</sup>

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<sup>2</sup> *Clough v. State*, 686 A.2d 158, 159 (Del. 1996); Del. Code Ann. tit. 10, § 564.

<sup>3</sup> *Id.*

<sup>4</sup> *Unitrin, Inc. v. American General Corp.*, 651 A.2d 1361, 1390 (Del. 1995). The Superior Court determined that Brooks' mandamus petition had no merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger  
Justice